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*Attorneys for Aramark Sports and  
Entertainment Services, LLC*

**UNITED STATES DISTRICT COURT  
District of Utah, Central Division**

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In re ARAMARK SPORTS AND  
ENTERTAINMENT SERVICES, LLC, a  
Delaware limited liability company, as  
owner of a certain 20' 2007 Baja Islander  
202 for exoneration from or limitation of  
liability,

Plaintiff.

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**STIPULATED MOTION TO  
MODIFY SCHEDULING ORDER  
AND  
[PROPOSED] MODIFIED  
SCHEDULING ORDER**

Case No.: 2:09-cv-00637

Judge Tena Campbell

Magistrate Judge Paul M. Warner

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Pursuant to Fed. R. Civ. P. 16(b)(4) and DUCivR 16-1(e), the parties jointly move the Court for entry of an order modifying the current scheduling order as set forth below. The proposed modifications are attached hereto as **Exhibit A**.

The reasons for the proposed changes include the following: (1) prior to the close of expert discovery at the end of July 2012, the parties informally stipulated to continue the dates

for expert depositions due to the number of people involved and the difficulty of scheduling all of the depositions; (2) despite ongoing efforts to schedule and take the expert depositions, a number of experts are yet to be deposed with the earliest available dates (largely due to trial schedules) for the final four experts not occurring until January 2013; (3) the parties ended up only having about 30 days between an agreed upon mediation before the close of expert discovery to depose about 12 experts, which was just not a possibility given the number of firms from different states and experts from all over the country; (4) all expert reports have been exchanged and a number of depositions have already been taken with all depositions having been firmly scheduled (excepting only the final four, which will take place in January 2013); and (5) there is a pending motion to amend an answer to include additional counter-claims, which motion will be likely be decided this month (October 2012) by Judge Campbell, which decision could possibly impact the discovery schedule going forward.

The parties provide the following table showing the remaining experts to be deposed and the agreed upon deposition date for each, with only one deposition left to be scheduled:

<b>Expert</b>	<b>Date</b>	<b>Time</b>	<b>Location</b>
Emond	11/5/2012	9:00 a.m.	Phoenix
Chalfant	1/16/2013	TBD	Phoenix
McEwen	1/29/2013	TBD	Phoenix
Taylor	1/31/2013	9:00 a.m.	Phoenix
Regan	TBD	TBD	Phoenix

The parties note their hesitancy in seeking this extension as they are interested in ensuring that the trial occurs in 2013. However, the parties do understand that the January 2013 trial will be taken off calendar as the extension sought extends beyond the currently scheduled start of trial as well as necessarily extends the dispositive motion deadline into February 2013.

Regarding the potential for a new trial date, counsel for the Taranto and Prescott Claimants wishes to inform the Court of the following. These Claimants will soon be filing a motion for separate trials on limitation of liability issues and Claimants' counterclaims, including a request for a jury trial on aspects of their counterclaims. Depending upon how the Court rules on this motion, this could affect trial scheduling and the number of trial days. In addition, these Claimants respectfully request that any trial not be scheduled for the months November, 2013 through February, 2014. Claimants' lead counsel is head basketball coach for a Phoenix, Arizona high school and an out of state trial during that time period would prevent him from fulfilling his coaching duties.

For the reasons set forth above, the parties jointly move for entry of the proposed stipulated modified scheduling order attached hereto as **Exhibit A**.

SIGNED and DATED as follows:

/s/ John R. Lund Date: 10/29/12  
John R. Lund, Attorney for Aramark

/s/ Daniel T. Benchoff Date: 10/29/12  
Daniel T. Benchoff, Attorney for Prescott/Taranto Claimants

/s/ John T. Masterson Date: 10/29/12  
John T. Masterson, Attorney for Brady Claimants

/s/ Patrick X. Fowler Date: 10/29/12  
Patrick X. Fowler, Attorney for Baja Claimant

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **STIPULATED MOTION TO MODIFY SCHEDULING ORDER AND PROPOSED MODIFIED SCHEDULING ORDER** was sent via electronic mail on this 29th day of October, 2012, to the following:

Robert S. Prince [rprince@kmclaw.com](mailto:rprince@kmclaw.com), [squilter@kmclaw.com](mailto:squilter@kmclaw.com)  
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Daniel Thomas Benchoff [dbenchoff@aztriallaw.com](mailto:dbenchoff@aztriallaw.com)

/s/ mws

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# EXHIBIT A

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owner of a certain 20' 2007 Baja Islander  
202 for exoneration from or limitation of  
liability,

Plaintiff.

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**MODIFIED SCHEDULING ORDER**

Case No.: 2:09-cv-00637

Judge Tena Campbell

Magistrate Judge Paul M. Warner

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Pursuant to Fed. R. Civ. P. 16(b)(4), the Magistrate Judge has reviewed the Stipulated Motion to Modify the Scheduling Order filed jointly by the parties and, for good cause shown, it is hereby ordered that the scheduling order be modified as follows, with all currently scheduled dates not addressed below remaining unchanged:

**\*\*ALL TIMES 11:59 PM UNLESS INDICATED\*\***

<b>5.</b>	<b>OTHER DEADLINES</b>	<b>DATE</b>
a.	Discovery to be completed by:	
	Fact discovery	<u>Completed</u>
	Expert discovery	<u>01/31/13</u>
b.	Deadline for filing dispositive or potentially dispositive motions	<u>02/28/13</u>
<b>6.</b>	<b>SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION</b>	<b>DATE</b>
a.	Referral to Court-Annexed Mediation:	<u>No</u>
b.	Referral to Court-Annexed Arbitration	<u>No</u>
c.	Evaluate case for Settlement/ADR on	<u>02/28/13</u>
d.	Settlement probability:	<u>Poor</u>

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7.	TRIAL AND PREPARATION FOR TRIAL	TIME	DATE
a.	Rule 26(a)(3) Pretrial Disclosures <sup>i</sup>		
	Plaintiff		<u>00/00/00</u>
	Defendant		<u>00/00/00</u>
b.	Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)		<u>00/00/00</u>
c.	Special Attorney Conference <sup>ii</sup> on or before		<u>00/00/00</u>
d.	Settlement Conference <sup>iii</sup> on or before		<u>00/00/00</u>
e.	Final Pretrial Conference	____:____.m.	<u>00/00/00</u>
f.	Trial		
	<u>Length</u>		
i.	Bench Trial		
	<u>10-15 days</u>	____:____.m.	<u>00/00/00</u>

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

BY THE COURT:

\_\_\_\_\_  
U.S. Magistrate Judge

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